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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/073,842      | 02/11/2002  | Arturo A. Rodriguez  | A-7496              | 6628             |

5642 7590 05/05/2004

SCIENTIFIC-ATLANTA, INC.  
INTELLECTUAL PROPERTY DEPARTMENT  
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LAWRENCEVILLE, GA 30044

EXAMINER

BUI, KIEU OANH T

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2611

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DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                        |                                      |   |  |
|------------------------|--------------------------------------|---|--|
| <b>Advisory Action</b> | <b>Application No.</b><br>10/073,842 | <b>Applicant(s)</b><br>RODRIGUEZ ET AL. |  |
|                        | <b>Examiner</b><br>KIEU-OANH T BUI   | <b>Art Unit</b><br>2611                 |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 29 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See the attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 79-104.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

*Response to After Final Arguments*

1. Applicant's arguments filed on 3/29/04 have been fully considered but they are not persuasive.

Applicants basically and repeatedly argue that the reference Ozer of record does not teach or suggest the limitation of claims 79, 88, 101, and 103, which simply refers to the step of “outputting by the set top box (or STT) a list of advertisement categories; receiving by the STT the user input corresponding to a category of advertisements identified in the list of advertisement categories; and downloading by the STT an advertisement corresponding to the category of advertisements, responsive to receiving the user input.” Since the Applicants reads too much into the paragraph cited by the Examiner line-by-line for the module and components inside the set top box and does not realize or ignore the fact that the set top box (STT) is controlled or command inputted by the user or the viewer (emphasis added). This simple technique is well known that the Examiner assumes that every one would know it without any doubt. Ozer eventually states that in the reference in column 1/section 0005, Fig. 5 and column 11/section 0104. As described in the cited paragraph, the advertising inventory is displaying to the user using the receiver module or the set top box (Fig. 8, and page 2/sect. 0019), and the user can select or choose items by using buttons, drop down menus, check boxes and so on; furthermore, the advertising inventory can be any category or type (page 3/sect. 0037). Therefore, the Examiner disagrees with the Applicants’ arguments and stands with the disclosure of Ozer as previously disclosed in the Final Office Action and further discussed in this Advisory Action.

Art Unit: 2611

***Conclusion***

**2. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(703) 872-9306, (for Technology Center 2600 only)**


*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).*

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (703) 305-0095. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:30 PM, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Krista Bui  
Art Unit 2611  
April 30, 2004

  
**VIVEK SRIVASTAVA  
PRIMARY EXAMINER**